



Decision Notice Milltown Park Parcels Acquisition

Montana Fish, Wildlife and parks
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Description of Proposed Project

Montana Fish, Wildlife and Parks (FWP) proposes to purchase via fee title the 180-acre, four parcel, Milltown Park property from The Nature Conservancy (TNC) located near the town of Bonner, Montana. The community of Bonner in Missoula County is 5 miles east of Missoula along the Interstate 90 corridor.

The size and location of the parcels are as follows. A location map is provided on page 4 of the environmental assessment (EA).

- Parcel #1, locally known as Bonner Hill, is east of the Bonner School and is approximately 102 acres;
- Parcel #2 is just north of Bonner, north of the Blackfoot River across from the former Stimson Mill and is approximately 47 acres;
- Parcel #3 is west of Milltown, near the Milltown Dam overlook near the Clark Fork River and is approximately 19 acres; and
- Parcel #4 is just north of Parcel 1, straddling Highway 200, and south of the Blackfoot River and is approximately 11 acres.

Need and Benefits

The proposed acquisition is the first step in a larger project for the confluence area of the Clark Fork and Blackfoot Rivers. The Milltown Park project is a multi-year project to redevelop and restore the Milltown Dam and Reservoir area to provide a site that combines recreation opportunities, heritage tourism, and environmental education that serves as a new catalyst of economic opportunity for the Milltown and Bonner communities.

This initial step calls for the acquisition by FWP of the TNC four parcels near Bonner, the Blackfoot River, and the Milltown Dam overlook. These parcels are in addition to the 450+ acres of NorthWestern Energy lands that are scheduled to come to the state as the core of a new state park.

Alternatives

Alternative A: Proposed Action: For FWP to purchase four parcels totaling 180 acres from The Nature Conservancy

FWP proposes to purchase via fee title approximately 180 acres near Bonner, Montana, to complete the first step in the redevelopment of the confluence area of the Blackfoot and Clark Fork Rivers into a new state park.

FWP and the Milltown Superfund Redevelopment Working Group, and Missoula County have applied for and been approved for an Upper Clark Fork River Basin Restoration Grant for approximately \$2.6 million for the establishment of a public park through the acquisition of these four parcels, development of park facilities, and resources for the park's initial operations and maintenance. The grant funds would come from the Montana Natural Resource Damage Program (NRDP). This program has been responsible for performing natural resource damage assessments, pursuing the lawsuit against Atlantic Richfield Company (ARCO), and administering funds from the settlement. The 1999 partial settlement earmarked about \$130 million to restore or replace the injured natural resources in the Upper Clark Fork River Basin. In general, restoration funds can be used on projects that will improve:

- natural resource-based recreational opportunities such as hunting, fishing, hiking and wildlife watching
- water, fish and wildlife resources
- public drinking water supplies

The grant amount available for the purchase of the four Milltown Park parcels is capped at \$1,080,000. A survey and appraisal are being completed by TNC and these are anticipated to be finalized before the Montana Land Board meeting in December. The appraisal would provide the final purchase price of the four parcels from TNC (at a combined value not exceed \$1,080,000), and the survey would provide more accurate boundary descriptions and acreages for the parcels and would provide Parcels 3 and 4 for separate conveyance to FWP.

In order to meet a NRDP funding condition, FWP will work with NRDP to place a deed restriction with reversionary clause on the Bonner Hill parcel (Parcel 1) to ensure this tract's perpetual use as open space and conservation lands to protect the existing natural resources.

After FWP acquires the four TNC parcels, FWP would transfer title to the 102-acre Bonner Hill parcel (Parcel 1) to the Bonner School District. The District has expressed interest in obtaining the property for use as an outdoor classroom, where children could be involved in physically active field-based education programs covering biology, field ecology, and forest management. At the time of transfer of Bonner Hill, FWP would retain a trail easement to support the future development of a community-wide trail system on the property. The District would assume the responsibility of the parcel's management and maintenance expenses.

Challenges for FWP related to the proposed acquisition include: oversight of FWP Parks Division management strategies and priorities, the long-range operation and maintenance of the parcel and infrastructure improvements, ensuring adequate levels and emergency response services, and enforcement of FWP rules throughout the parcels for protecting public safety, park facilities, and resource values. Estimated 5-year operations and maintenance expenses are

\$656,200 for weed management, fencing maintenance of grounds, equipment and facilities, signage, day-to-day operations, contracted services, dedicated park equipment, and salaries for two full-time employees to oversee the new park. Anticipated immediate expenses include the installation of appropriate signage (FWP identification, public use rules and regulations, etc.), ongoing noxious weed management, and limited boundary marking and fencing.

Funding for operations and maintenance expenses for the first 5 years has been funded through the NRDP grant. FWP has begun investigating and discussing funding options for the long-term operation of the park including the establishment of a not-for-profit organization for fundraising activities.

Since FWP will be reimbursed for the actual operations and maintenance expenses by the NRDP instead of being given the grant funds for deposit into a designated maintenance account, FWP believes it is in compliance with 87-1-209 MCA because the \$656,200 of Operations & Maintenance funding proposed to be reimbursed to FWP by NRDP over the life of the project, *exceeds* “the additional amount above 20% of the purchase price or \$300,000, whichever is less”.

The proposed acquisition is the first component for the establishment of a state park at the confluence of the Clark Fork and Blackfoot Rivers in the area of the old Milltown Dam. Future acquisitions and development activities would be discussed and analyzed in additional environmental assessments.

Alternative B: No Action: FWP would not purchase four Milltown Park parcels

Under the No Action Alternative, FWP would not purchase the four parcels from TNC and TNC would look for other conservation buyers that might meet its broader Montana Lands Project conservation goals. If no interested buyer is found, the property may be put on the real estate market for a private buyer for limited residential use and likely TNC would require a conservation easement to protect resource values. Public access would not likely be guaranteed by such an easement.

Previously dedicated Natural Resource Damage Program funds for this acquisition would be released to support different projects. Replacement of cost and injured natural resources subject to Montana v. ARCO would not be derived from this project.

The "no action" alternative was considered but found unacceptable by the Design Team of the Milltown Park Concept Plan. The enhancement to the overall park plan by these four parcels would be lost. Also, the Design Team recognized the inevitability of public demand for additional access to the area is critical in allowing consolidated access and management to the site.

Alternative Considered but Eliminated from Further Analysis – Conservation Easement

This alternative was not investigated since TNC is only interested in selling the parcels.

Public Process

Montana Fish, Wildlife & Parks is required by the Montana Environmental Policy Act (MEPA) to assess potential impacts of its proposed actions to the human and physical environments, evaluate those impacts through an interdisciplinary approach, including public input, and make a decision based on this information.

The legal notice for the Milltown Park Acquisition EA was published twice each in the *Independent Record* (Helena; Oct 28, Nov 6) and *Missoulian* (Oct 28, Nov 6) newspapers. FWP distributed approximately 49 copies of the EA and 48 email-notifications of the EA's availability, to adjacent landowners and interested individuals, groups and agencies. The EA was available for public review on FWP's web site (<http://fwp.mt.gov/>, "Public Notices") from October 28 through November 26, 2010.

Additionally, a public meeting was held on November 10th at the Bonner School Library. It was co-sponsored between FWP and the U.S. Environmental Protection Agency regarding the Milltown Dam remediation, restoration and redevelopment efforts. There were 41 people signed in at the public meeting and they were provided with an opportunity for FWP to address questions about the proposed acquisition and formulate comments about the proposed Milltown Park acquisition.

Comment Summary

During the official comment period, which ended at 5:00 P.M. on November 26th, FWP received 18 comment letters and/or emails. This represents 24 individuals and 6 agencies or organizations. There was almost unanimous support or qualified support, except for 1 individual, for the proposed action to acquire these four parcels of land from TNC. Specific concerns or recommendations are addressed below:

Comment #1.

- However, I have some questions about parcel 1. I'm not sure if NRDC monies have ever been used to purchase land for a school district, or if FWP has ever been involved in a purchase that would be transferred to a school district. I'm not sure if Bonner School District has the resources to do weed control, fire hazard control, and to maintain a trail system and keep it open to the public. I wonder if any other elementary school district in the State has received such a gift of land, and has been able to maintain it as an outdoor classroom. It is usually the other way around. School Districts hold classrooms on lands administered by other agencies. I say parcel one should be separated from the others, and this proposal examined on its own merits.

FWP Response: *FWP along with Missoula County and the Milltown Redevelopment Working Group were approved for an Upper Clark Fork River Basin Restoration Grant from the Montana Natural Resource Damage Program (NRDP). The process to apply for and receive these funds is quite extensive, requiring applicants to present their proposals to the NRDP Advisory Council and the Trustee Restoration Council. In June of this year, the Missoula City Council and County Commissioners unanimously approved a request for \$25,000 from the 2006*

Open Space Bond to contribute towards the purchase of Parcel No. 1, otherwise known as the Bonner Hill. The Council and Commissioners made the funding contingent upon a deed restriction and reversion in favor of the State or The Nature Conservancy being placed upon the property in order to assure that the property's open space values of wildlife corridor and habitat, scenic view-shed, public trails, and environmental education are permanently protected. The Bonner School District has assured FWP that they can manage and maintain the property. They are quite excited about this opportunity. They also are utilizing the expertise of the University of Montana Forestry Department and Missoula County Weed District in helping to manage some of the resource issues. In order to meet NRDP and Open Space funding, a deed restriction with a revisionary clause will be placed on the Bonner Hill parcel to ensure perpetual use as open space and conservation lands to protect the existing natural resources.

Comment #2.

- We, the listed 13 landowners living along the north shore of the lower Blackfoot River, would like to record the following concerning FWP's proposal to purchase 47 acres on the northside of the stream – Tract #2.
- Foremost, the listed signatories are not in favor of any motorized traffic east from the former Stimson millsite/tract #2. Also, overall access to lands east of the proposed 47 acres via the abandoned railroad bed must be limited. Not only are residents' safety and privacy factors here, but a good portion of the railroad bed is now deeded and posted land.
- Then there is the liability factor including that of the residents, Forest Service, and FWP. A prime example of potential liability is the road cut through the cliff immediately west of the proposed 47 acres where debris continues to slough off.
- Another consideration: East of these 47 acres is an important winter range for elk. Therefore, the less human disruption, the better.

FWP Response: *FWP recognizes your concern about potential motorized use across parcel 2, to its northeastern boundary, and believes that such use might not be necessary for public use of this parcel. However, motorized and non-motorized use of the parcel would be carefully looked at and would be components of an overall public use plan for the parcel, which would be developed with opportunity for public input at a later date by FWP. The old abandoned railroad bed that runs through parcel 2 exits near the eastern edge of the north boundary of said parcel and continues northeasterly through Lolo National Forest (NF) land for approximately one mile before entering privately owned land (per property ownership depicted on the Montana Cadastral website, <http://cadastral.mt.gov/>, accessed December 1, 2010). FWP would post the north boundary line of parcel 2 as “end of FWP ownership” where the old railroad bed exits FWP’s property. Public safety is always a concern for FWP and the issue of sloughing debris onto the railroad bed near the western edge of parcel 2 would be looked into before this area is opened to the public. FWP agrees that (north) east of parcel 2 is part of an important wildlife winter range.*

Comment #3.

- The new park area proposed to be developed at the site of the former Milltown Dam provides a once in a lifetime opportunity to develop a public beach area that can adequately serve the needs of the Missoula residents. This is an area that is either already in public ownership or soon will be, that is in close proximity to Missoula, has good access (vehicular and, as soon as a few more trail connections are completed, foot and bicycle as well), does not have any immediate residential neighbors that it would negatively impact and provides an excellent opportunity for development of a true public beach area to serve our community now and for many years to come.
- I have reviewed the *Milltown/Two Rivers Park Conceptual Design Report*, issued in July 2008 and available on-line, and was disappointed to not see any beach area of any consequence proposed within said plan. I am not sure how far along this "plan" is but I would ask that you reconsider providing facilities such as I have outlined above at this site.

FWP Response: *Redevelopment of the Milltown area has to dovetail with the restoration efforts that are taking place. It is also critical that public use of the area be carefully controlled. Your concern and recommendation is noted and will be kept on file as more planning and development is considered.*

One individual was opposed to the action with the following statement:

Comment #1.

- I oppose the MT FWP purchasing the old Milltown Dam Site. The Nature Conservancy is nothing more than a land brokering organization. If they were concerned about saving the site, they should just allow the public the use it plus bear all the costs to maintain it. Why should the Montana tax payers and sportsman foot the bill for this? Besides, this property will come off the Missoula County property tax rolls thus lowering income to the county.

FWP Response: *The funding to purchase these four parcels is coming from the Montana Natural Resource Damage Program. These funds are the result of the lawsuit settlement between Montana and ARCO. The funds are earmarked to restore or replace the injured natural resources in the Upper Clark Fork River Basin. FWP is required by law to make payments to counties equal to the amount that a private landowner would pay. Current taxes total approximately \$453.00 per year for parcels 2,3,and 4. Taxes for parcel 1 are \$229.00, and these would be lost to the County, since school districts are exempt from paying property taxes. The County Commissioners are aware of this and support it because the school would manage the land for public access and open space.*

Decision

Based upon the Environmental Assessment (EA) and the applicable laws, regulations, and policies, I have determined that the proposed action would not have significant effects on the

human and physical environments associated with the parcels. Therefore, we conclude that the EA is the appropriate level of analysis and the preparation of an Environmental Impact Statement is unnecessary.

By this notification, the draft EA is hereby made the final EA with this Decision Notice, since no changes are required to the draft document.

It is my decision to recommend the acquisition of the four Milltown Park parcels to the FWP Commission. This action requires the approval of the FWP Commission and Montana Land Board before it can be finalized.



12/2/2010

Lee Bastian, FWP Regional Park Manager

Date